

## COMMITTEE REPORT

### MR. PRESIDENT:

**The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1553, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:**

- 1       Page 2, line 15, delete "that" and insert "**independent contractor**".
- 2       Page 2, line 16, delete "documentation must include at least" and
- 3       insert "**independent contractor must obtain clearance from the**
- 4       **department of state revenue before issuance of the certificate.**".
- 5       Page 2, delete lines 17 through 28.
- 6       Page 6, between lines 37 and 38, begin a new paragraph and insert:
- 7       "SECTION 4. IC 22-3-3-5.2 IS AMENDED TO READ AS
- 8       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.2. (a) A billing
- 9       review service shall adhere to the following requirements to determine
- 10      the pecuniary liability of an employer or an employer's insurance
- 11      carrier for a specific service or product covered under worker's
- 12      compensation:
- 13          (1) The formation of a billing review standard, and any
- 14          subsequent analysis or revision of the standard, must use data that
- 15          is based on the medical service provider billing charges as
- 16          submitted to the employer and the employer's insurance carrier
- 17          from the same community. This subdivision does not apply when
- 18          a unique or specialized service or product does not have sufficient
- 19          comparative data to allow for a reasonable comparison.

(2) Data used to determine pecuniary liability must be compiled on or before June 30 and December 31 of each year.

(3) Billing review standards must be revised for prospective future payments of medical service provider bills to provide for payment of the charges at a rate not more than the charges made by eighty percent (80%) of the medical service providers during the prior six (6) months within the same community. The data used to perform the analysis and revision of the billing review standards may not be more than two (2) years old and must be periodically updated by a representative inflationary or deflationary factor. Reimbursement for these charges may not exceed the actual charge invoiced by the medical service provider.

(4) The billing review standard shall include the billing charges of all hospitals in the applicable community for the service or product.

(b) A medical service provider may request an explanation from a billing review service if the medical service provider's bill has been reduced as a result of application of the eightieth percentile or of a Current Procedural Terminology (CPT) coding change. The request must be made not later than sixty (60) days after receipt of the notice of the reduction. If a request is made, the billing review service must provide:

(1) the name of the billing review service used to make the reduction;

(2) the dollar amount of the reduction;

(3) the dollar amount of the medical service at the eightieth percentile; and

(4) in the case of a CPT coding change, the basis upon which the change was made;

not later than thirty (30) days after the date of the request.

**(c) If after a hearing the worker's compensation board finds that a billing review service used a billing review standard that did not comply with subsection (a)(1) through (a)(4) in determining the pecuniary liability of an employer or an employer's insurance carrier for a health care provider's charge for services or products covered under worker's compensation, the worker's compensation board may assess a civil penalty against the billing review service**

1 **in an amount not less than one hundred dollars (\$100) and not**  
 2 **more than one thousand dollars (\$1,000).**

3 SECTION 5. IC 22-3-3-13, AS AMENDED BY P.L.235-1999,  
 4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5 JULY 1, 2001]: Sec. 13. (a) As used in this section, "board" refers to  
 6 the worker's compensation board created under IC 22-3-1-1.

7 (b) If an employee who from any cause, had lost, or lost the use of,  
 8 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and  
 9 in a subsequent industrial accident becomes permanently and totally  
 10 **impaired disabled** by reason of the loss, or loss of use of, another such  
 11 member or eye, the employer shall be liable only for the compensation  
 12 payable for such second injury. However, in addition to such  
 13 compensation and after the completion of the payment therefor, the  
 14 employee shall be paid the remainder of the compensation that would  
 15 be due for such total permanent **impairment disability** out of a special  
 16 fund known as the second injury fund, and created in the manner  
 17 described in subsection (c).

18 (c) Whenever the board determines under the procedures set forth  
 19 in subsection (d) that an assessment is necessary to ensure that fund  
 20 beneficiaries, including applicants under section 4(e) of this chapter,  
 21 continue to receive compensation in a timely manner for a reasonable  
 22 prospective period, the board shall send notice not later than October  
 23 1 in any year to:

24 (1) all insurance carriers and other entities insuring or providing  
 25 coverage to employers who are or may be liable under this article  
 26 to pay compensation for personal injuries to or the death of their  
 27 employees under this article; and

28 (2) each employer carrying the employer's own risk;

29 stating that an assessment is necessary. After June 30, 1999, the board  
 30 may conduct an assessment under this subsection not more than one (1)  
 31 time annually. Every insurance carrier and other entity insuring or  
 32 providing coverage to employers who are or may be liable under this  
 33 article to pay compensation for personal injuries to or death of their  
 34 employees under this article and every employer carrying the  
 35 employer's own risk, shall, within thirty (30) days of the board sending  
 36 notice under this subsection, pay to the worker's compensation board  
 37 for the benefit of the fund an assessed amount that may not exceed ~~one~~  
 38 ~~and one-half percent (1.5%)~~ **two percent (2%)** of the total amount of

all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars (\$1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars (\$1,000,000), the payments of not more than ~~one and one-half percent (1.5%)~~ **two percent (2%)** of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. **In no case shall the board use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.**

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium

1 statement. A premium surcharge under this subsection must be  
2 excluded from the definition of premium for all purposes, including the  
3 computation of agent commissions or premium taxes. However, an  
4 insurer may cancel a worker's compensation policy for nonpayment of  
5 the premium surcharge. A cancellation under this subsection must be  
6 carried out under the statutes applicable to the nonpayment of  
7 premiums.

8 (f) The sums shall be paid by the board to the treasurer of state, to  
9 be deposited in a special account known as the second injury fund. The  
10 funds are not a part of the general fund of the state. Any balance  
11 remaining in the account at the end of any fiscal year shall not revert  
12 to the general fund. The funds shall be used only for the payment of  
13 awards of compensation and expense of medical examinations or  
14 treatment made and ordered by the board and chargeable against the  
15 fund pursuant to this section, and shall be paid for that purpose by the  
16 treasurer of state upon award or order of the board.

17 (g) If an employee who is entitled to compensation under IC 22-3-2  
18 through IC 22-3-6 either:

19 (1) exhausts the maximum benefits under section 22 of this  
20 chapter without having received the full amount of award granted  
21 to the employee under section 10 of this chapter; or

22 (2) exhausts the employee's benefits under section 10 of this  
23 chapter;

24 then such employee may apply to the board, who may award the  
25 employee compensation from the second injury fund established by this  
26 section, as follows under subsection (h).

27 (h) An employee who has exhausted the employee's maximum  
28 benefits under section 10 of this chapter may be awarded additional  
29 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the  
30 employee's average weekly wage at the time of the employee's injury,  
31 not to exceed the maximum then applicable under section 22 of this  
32 chapter, for a period of not to exceed one hundred fifty (150) weeks  
33 upon competent evidence sufficient to establish:

34 (1) that the employee is totally and permanently disabled from  
35 causes and conditions of which there are or have been objective  
36 conditions and symptoms proven that are not within the physical  
37 or mental control of the employee; and

38 (2) that the employee is unable to support the employee in any

gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

**(j) The board shall assign an employee who is responsible for determining that claimants receiving benefits from the second injury fund remain eligible and are not employed. The employee shall examine records of the department of state revenue and the department of workforce development in making the determinations.**

SECTION 6. IC 22-3-6-1, AS AMENDED BY P.L.31-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent or a subsidiary of a corporation or a lessor of employees shall **each** be considered to be the employer of the corporation's, the lessee's, or the lessor's employees for purposes of IC 22-3-2-6. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the

1 usual course of the trade, business, occupation, or profession of the  
2 employer.

3 (1) An executive officer elected or appointed and empowered in  
4 accordance with the charter and bylaws of a corporation, other  
5 than a municipal corporation or governmental subdivision or a  
6 charitable, religious, educational, or other nonprofit corporation,  
7 is an employee of the corporation under IC 22-3-2 through  
8 IC 22-3-6.

9 (2) An executive officer of a municipal corporation or other  
10 governmental subdivision or of a charitable, religious,  
11 educational, or other nonprofit corporation may, notwithstanding  
12 any other provision of IC 22-3-2 through IC 22-3-6, be brought  
13 within the coverage of its insurance contract by the corporation by  
14 specifically including the executive officer in the contract of  
15 insurance. The election to bring the executive officer within the  
16 coverage shall continue for the period the contract of insurance is  
17 in effect, and during this period, the executive officers thus  
18 brought within the coverage of the insurance contract are

19 employees of the corporation under IC 22-3-2 through IC 22-3-6.  
20 (3) Any reference to an employee who has been injured, when the  
21 employee is dead, also includes the employee's legal  
22 representatives, dependents, and other persons to whom  
23 compensation may be payable.

24 (4) An owner of a sole proprietorship may elect to include the  
25 owner as an employee under IC 22-3-2 through IC 22-3-6 if the  
26 owner is actually engaged in the proprietorship business. If the  
27 owner makes this election, the owner must serve upon the owner's  
28 insurance carrier and upon the board written notice of the  
29 election. No owner of a sole proprietorship may be considered an  
30 employee under IC 22-3-2 through IC 22-3-6 until the notice has  
31 been received. If the owner of a sole proprietorship is an  
32 independent contractor in the construction trades and does not  
33 make the election provided under this subdivision, the owner  
34 must obtain an affidavit of exemption under IC 22-3-2-14.5.

35 (5) A partner in a partnership may elect to include the partner as  
36 an employee under IC 22-3-2 through IC 22-3-6 if the partner is  
37 actually engaged in the partnership business. If a partner makes  
38 this election, the partner must serve upon the partner's insurance

1 carrier and upon the board written notice of the election. No  
2 partner may be considered an employee under IC 22-3-2 through  
3 IC 22-3-6 until the notice has been received. If a partner in a  
4 partnership is an independent contractor in the construction trades  
5 and does not make the election provided under this subdivision,  
6 the partner must obtain an affidavit of exemption under  
7 IC 22-3-2-14.5.

8 (6) Real estate professionals are not employees under IC 22-3-2  
9 through IC 22-3-6 if:

10 (A) they are licensed real estate agents;

11 (B) substantially all their remuneration is directly related to  
12 sales volume and not the number of hours worked; and

13 (C) they have written agreements with real estate brokers  
14 stating that they are not to be treated as employees for tax  
15 purposes.

16 (7) A person is an independent contractor in the construction  
17 trades and not an employee under IC 22-3-2 through IC 22-3-6 if  
18 the person is an independent contractor under the guidelines of  
19 the United States Internal Revenue Service.

20 (8) An owner-operator that provides a motor vehicle and the  
21 services of a driver under a written contract that is subject to  
22 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
23 carrier is not an employee of the motor carrier for purposes of  
24 IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be  
25 covered and have the owner-operator's drivers covered under a  
26 worker's compensation insurance policy or authorized  
27 self-insurance that insures the motor carrier if the owner-operator  
28 pays the premiums as requested by the motor carrier. An election  
29 by an owner-operator under this subdivision does not terminate  
30 the independent contractor status of the owner-operator for any  
31 purpose other than the purpose of this subdivision.

32 (9) A member or manager in a limited liability company may elect  
33 to include the member or manager as an employee under  
34 IC 22-3-2 through IC 22-3-6 if the member or manager is actually  
35 engaged in the limited liability company business. If a member or  
36 manager makes this election, the member or manager must serve  
37 upon the member's or manager's insurance carrier and upon the  
38 board written notice of the election. A member or manager may



1 not be considered an employee under IC 22-3-2 through IC 22-3-6  
2 until the notice has been received.

3 (10) An unpaid participant under the federal School to Work  
4 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
5 extent set forth in IC 22-3-2-2.5.

6 (c) "Minor" means an individual who has not reached seventeen  
7 (17) years of age.

8 (1) Unless otherwise provided in this subsection, a minor  
9 employee shall be considered as being of full age for all purposes  
10 of IC 22-3-2 through IC 22-3-6.

11 (2) If the employee is a minor who, at the time of the accident, is  
12 employed, required, suffered, or permitted to work in violation of  
13 IC 20-8.1-4-25, the amount of compensation and death benefits,  
14 as provided in IC 22-3-2 through IC 22-3-6, shall be double the  
15 amount which would otherwise be recoverable. The insurance  
16 carrier shall be liable on its policy for one-half (1/2) of the  
17 compensation or benefits that may be payable on account of the  
18 injury or death of the minor, and the employer shall be liable for  
19 the other one-half (1/2) of the compensation or benefits. If the  
20 employee is a minor who is not less than sixteen (16) years of age  
21 and who has not reached seventeen (17) years of age and who at  
22 the time of the accident is employed, suffered, or permitted to  
23 work at any occupation which is not prohibited by law, this  
24 subdivision does not apply.

25 (3) A minor employee who, at the time of the accident, is a  
26 student performing services for an employer as part of an  
27 approved program under IC 20-10.1-6-7 shall be considered a  
28 full-time employee for the purpose of computing compensation  
29 for permanent impairment under IC 22-3-3-10. The average  
30 weekly wages for such a student shall be calculated as provided  
31 in subsection (d)(4).

32 (4) The rights and remedies granted in this subsection to a minor  
33 under IC 22-3-2 through IC 22-3-6 on account of personal injury  
34 or death by accident shall exclude all rights and remedies of the  
35 minor, the minor's parents, or the minor's personal  
36 representatives, dependents, or next of kin at common law,  
37 statutory or otherwise, on account of the injury or death. This  
38 subsection does not apply to minors who have reached seventeen

1 (17) years of age.

2 (d) "Average weekly wages" means the earnings of the injured  
3 employee in the employment in which the employee was working at the  
4 time of the injury during the period of fifty-two (52) weeks  
5 immediately preceding the date of injury, divided by fifty-two (52),  
6 except as follows:

7 (1) If the injured employee lost seven (7) or more calendar days  
8 during this period, although not in the same week, then the  
9 earnings for the remainder of the fifty-two (52) weeks shall be  
10 divided by the number of weeks and parts thereof remaining after  
11 the time lost has been deducted.

12 (2) Where the employment prior to the injury extended over a  
13 period of less than fifty-two (52) weeks, the method of dividing  
14 the earnings during that period by the number of weeks and parts  
15 thereof during which the employee earned wages shall be  
16 followed, if results just and fair to both parties will be obtained.  
17 Where by reason of the shortness of the time during which the  
18 employee has been in the employment of the employee's employer  
19 or of the casual nature or terms of the employment it is  
20 impracticable to compute the average weekly wages, as defined  
21 in this subsection, regard shall be had to the average weekly  
22 amount which during the fifty-two (52) weeks previous to the  
23 injury was being earned by a person in the same grade employed  
24 at the same work by the same employer or, if there is no person so  
25 employed, by a person in the same grade employed in the same  
26 class of employment in the same district.

27 (3) Wherever allowances of any character made to an employee  
28 in lieu of wages are a specified part of the wage contract, they  
29 shall be deemed a part of his earnings.

30 (4) In computing the average weekly wages to be used in  
31 calculating an award for permanent impairment under  
32 IC 22-3-3-10 for a student employee in an approved training  
33 program under IC 20-10.1-6-7, the following formula shall be  
34 used. Calculate the product of:

35 (A) the student employee's hourly wage rate; multiplied by

36 (B) forty (40) hours.

37 The result obtained is the amount of the average weekly wages for  
38 the student employee.

1 (e) "Injury" and "personal injury" mean only injury by accident  
2 arising out of and in the course of the employment and do not include  
3 a disease in any form except as it results from the injury.

4 (f) "Billing review service" refers to a person or an entity that  
5 reviews a medical service provider's bills or statements for the purpose  
6 of determining pecuniary liability. The term includes an employer's  
7 worker's compensation insurance carrier if the insurance carrier  
8 performs such a review.

9 (g) "Billing review standard" means the data used by a billing  
10 review service to determine pecuniary liability.

11 (h) "Community" means a geographic service area based on zip  
12 code districts defined by the United States Postal Service according to  
13 the following groupings:

14 (1) The geographic service area served by zip codes with the first  
15 three (3) digits 463 and 464.

16 (2) The geographic service area served by zip codes with the first  
17 three (3) digits 465 and 466.

18 (3) The geographic service area served by zip codes with the first  
19 three (3) digits 467 and 468.

20 (4) The geographic service area served by zip codes with the first  
21 three (3) digits 469 and 479.

22 (5) The geographic service area served by zip codes with the first  
23 three (3) digits 460, 461 (except 46107), and 473.

24 (6) The geographic service area served by the 46107 zip code and  
25 zip codes with the first three (3) digits 462.

26 (7) The geographic service area served by zip codes with the first  
27 three (3) digits 470, 471, 472, 474, and 478.

28 (8) The geographic service area served by zip codes with the first  
29 three (3) digits 475, 476, and 477.

30 (i) "Medical service provider" refers to a person or an entity that  
31 provides medical services, treatment, or supplies to an employee under  
32 IC 22-3-2 through IC 22-3-6.

33 (j) "Pecuniary liability" means the responsibility of an employer or  
34 the employer's insurance carrier for the payment of the charges for each  
35 specific service or product for human medical treatment provided  
36 under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or  
37 less than the charges made by medical service providers at the eightieth  
38 percentile in the same community for like services or products.

SECTION 7. IC 22-3-7-9, AS AMENDED BY P.L.31-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent or a subsidiary of a corporation or a lessor of employees shall **each** be considered to be the employer of the corporation's, the lessee's, or the lessor's employees for purposes of section 6 of this chapter. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes his insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes his legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include himself as an employee under this chapter if he is actually engaged in the proprietorship business. If the owner makes this election, he must serve upon his insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-7-34.5.

(3) A partner in a partnership may elect to include himself as an

1 employee under this chapter if he is actually engaged in the  
 2 partnership business. If a partner makes this election, he must  
 3 serve upon his insurance carrier and upon the board written notice  
 4 of the election. No partner may be considered an employee under  
 5 this chapter until the notice has been received. If a partner in a  
 6 partnership is an independent contractor in the construction trades  
 7 and does not make the election provided under this subdivision,  
 8 the partner must obtain an affidavit of exemption under  
 9 IC 22-3-7-34.5.

10 (4) Real estate professionals are not employees under this chapter  
 11 if:

12 (A) they are licensed real estate agents;

13 (B) substantially all their remuneration is directly related to  
 14 sales volume and not the number of hours worked; and

15 (C) they have written agreements with real estate brokers  
 16 stating that they are not to be treated as employees for tax  
 17 purposes.

18 (5) A person is an independent contractor in the construction  
 19 trades and not an employee under this chapter if the person is an  
 20 independent contractor under the guidelines of the United States  
 21 Internal Revenue Service.

22 (6) An owner-operator that provides a motor vehicle and the  
 23 services of a driver under a written contract that is subject to  
 24 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
 25 carrier is not an employee of the motor carrier for purposes of this  
 26 chapter. The owner-operator may elect to be covered and have the  
 27 owner-operator's drivers covered under a worker's compensation  
 28 insurance policy or authorized self-insurance that insures the  
 29 motor carrier if the owner-operator pays the premiums as  
 30 requested by the motor carrier. An election by an owner-operator  
 31 under this subdivision does not terminate the independent  
 32 contractor status of the owner-operator for any purpose other than  
 33 the purpose of this subdivision.

34 (7) An unpaid participant under the federal School to Work  
 35 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the  
 36 extent set forth under section 2.5 of this chapter.

37 (c) As used in this chapter, "minor" means an individual who has  
 38 not reached seventeen (17) years of age. A minor employee shall be

1 considered as being of full age for all purposes of this chapter.  
2 However, if the employee is a minor who, at the time of the last  
3 exposure, is employed, required, suffered, or permitted to work in  
4 violation of the child labor laws of this state, the amount of  
5 compensation and death benefits, as provided in this chapter, shall be  
6 double the amount which would otherwise be recoverable. The  
7 insurance carrier shall be liable on its policy for one-half (1/2) of the  
8 compensation or benefits that may be payable on account of the  
9 disability or death of the minor, and the employer shall be wholly liable  
10 for the other one-half (1/2) of the compensation or benefits. If the  
11 employee is a minor who is not less than sixteen (16) years of age and  
12 who has not reached seventeen (17) years of age, and who at the time  
13 of the last exposure is employed, suffered, or permitted to work at any  
14 occupation which is not prohibited by law, the provisions of this  
15 subsection prescribing double the amount otherwise recoverable do not  
16 apply. The rights and remedies granted to a minor under this chapter on  
17 account of disease shall exclude all rights and remedies of the minor,  
18 his parents, his personal representatives, dependents, or next of kin at  
19 common law, statutory or otherwise, on account of any disease.

20 (d) This chapter does not apply to casual laborers as defined in  
21 subsection (b), nor to farm or agricultural employees, nor to household  
22 employees, nor to railroad employees engaged in train service as  
23 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or  
24 foremen in charge of yard engines and helpers assigned thereto, nor to  
25 their employers with respect to these employees. Also, this chapter  
26 does not apply to employees or their employers with respect to  
27 employments in which the laws of the United States provide for  
28 compensation or liability for injury to the health, disability, or death by  
29 reason of diseases suffered by these employees.

30 (e) As used in this chapter, "disablement" means the event of  
31 becoming disabled from earning full wages at the work in which the  
32 employee was engaged when last exposed to the hazards of the  
33 occupational disease by the employer from whom he claims  
34 compensation or equal wages in other suitable employment, and  
35 "disability" means the state of being so incapacitated.

36 (f) For the purposes of this chapter, no compensation shall be  
37 payable for or on account of any occupational diseases unless  
38 disablement, as defined in subsection (e), occurs within two (2) years

1 after the last day of the last exposure to the hazards of the disease  
2 except for the following:

3 (1) In all cases of occupational diseases caused by the inhalation  
4 of silica dust or coal dust, no compensation shall be payable  
5 unless disablement, as defined in subsection (e), occurs within  
6 three (3) years after the last day of the last exposure to the hazards  
7 of the disease.

8 (2) In all cases of occupational disease caused by the exposure to  
9 radiation, no compensation shall be payable unless disablement,  
10 as defined in subsection (e), occurs within two (2) years from the  
11 date on which the employee had knowledge of the nature of his  
12 occupational disease or, by exercise of reasonable diligence,  
13 should have known of the existence of such disease and its causal  
14 relationship to his employment.

15 (3) In all cases of occupational diseases caused by the inhalation  
16 of asbestos dust, no compensation shall be payable unless  
17 disablement, as defined in subsection (e), occurs within three (3)  
18 years after the last day of the last exposure to the hazards of the  
19 disease if the last day of the last exposure was before July 1, 1985.

20 (4) In all cases of occupational disease caused by the inhalation  
21 of asbestos dust in which the last date of the last exposure occurs  
22 on or after July 1, 1985, and before July 1, 1988, no compensation  
23 shall be payable unless disablement, as defined in subsection (e),  
24 occurs within twenty (20) years after the last day of the last  
25 exposure.

26 (5) In all cases of occupational disease caused by the inhalation  
27 of asbestos dust in which the last date of the last exposure occurs  
28 on or after July 1, 1988, no compensation shall be payable unless  
29 disablement (as defined in subsection (e)) occurs within  
30 thirty-five (35) years after the last day of the last exposure.

31 (g) For the purposes of this chapter, no compensation shall be  
32 payable for or on account of death resulting from any occupational  
33 disease unless death occurs within two (2) years after the date of  
34 disablement. However, this subsection does not bar compensation for  
35 death:

36 (1) where death occurs during the pendency of a claim filed by an  
37 employee within two (2) years after the date of disablement and  
38 which claim has not resulted in a decision or has resulted in a

1 decision which is in process of review or appeal; or

2 (2) where, by agreement filed or decision rendered, a  
3 compensable period of disability has been fixed and death occurs  
4 within two (2) years after the end of such fixed period, but in no  
5 event later than three hundred (300) weeks after the date of  
6 disablement.

7 (h) As used in this chapter, "billing review service" refers to a  
8 person or an entity that reviews a medical service provider's bills or  
9 statements for the purpose of determining pecuniary liability. The term  
10 includes an employer's worker's compensation insurance carrier if the  
11 insurance carrier performs such a review.

12 (i) As used in this chapter, "billing review standard" means the data  
13 used by a billing review service to determine pecuniary liability.

14 (j) As used in this chapter, "community" means a geographic service  
15 area based on zip code districts defined by the United States Postal  
16 Service according to the following groupings:

17 (1) The geographic service area served by zip codes with the first  
18 three (3) digits 463 and 464.

19 (2) The geographic service area served by zip codes with the first  
20 three (3) digits 465 and 466.

21 (3) The geographic service area served by zip codes with the first  
22 three (3) digits 467 and 468.

23 (4) The geographic service area served by zip codes with the first  
24 three (3) digits 469 and 479.

25 (5) The geographic service area served by zip codes with the first  
26 three (3) digits 460, 461 (except 46107), and 473.

27 (6) The geographic service area served by the 46107 zip code and  
28 zip codes with the first three (3) digits 462.

29 (7) The geographic service area served by zip codes with the first  
30 three (3) digits 470, 471, 472, 474, and 478.

31 (8) The geographic service area served by zip codes with the first  
32 three (3) digits 475, 476, and 477.

33 (k) As used in this chapter, "medical service provider" refers to a  
34 person or an entity that provides medical services, treatment, or  
35 supplies to an employee under this chapter.

36 (l) As used in this chapter, "pecuniary liability" means the  
37 responsibility of an employer or the employer's insurance carrier for the  
38 payment of the charges for each specific service or product for human



1 medical treatment provided under this chapter in a defined community,  
2 equal to or less than the charges made by medical service providers at  
3 the eightieth percentile in the same community for like services or  
4 products.

5 SECTION 8. IC 22-3-7-17.2 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17.2. (a) A billing  
7 review service shall adhere to the following requirements to determine  
8 the pecuniary liability of an employer or an employer's insurance  
9 carrier for a specific service or product covered under this chapter:

10 (1) The formation of a billing review standard, and any  
11 subsequent analysis or revision of the standard, must use data that  
12 is based on the medical service provider billing charges as  
13 submitted to the employer and the employer's insurance carrier  
14 from the same community. This subdivision does not apply when  
15 a unique or specialized service or product does not have sufficient  
16 comparative data to allow for a reasonable comparison.

17 (2) Data used to determine pecuniary liability must be compiled  
18 on or before June 30 and December 31 of each year.

19 (3) Billing review standards must be revised for prospective  
20 future payments of medical service provider bills to provide for  
21 payment of the charges at a rate not more than the charges made  
22 by eighty percent (80%) of the medical service providers during  
23 the prior six (6) months within the same community. The data  
24 used to perform the analysis and revision of the billing review  
25 standards may not be more than two (2) years old and must be  
26 periodically updated by a representative inflationary or  
27 deflationary factor. Reimbursement for these charges may not  
28 exceed the actual charge invoiced by the medical service  
29 provider.

30 (4) The billing review standard shall include the billing charges  
31 of all hospitals in the applicable community for the service or  
32 product.

33 (b) A medical service provider may request an explanation from a  
34 billing review service if the medical service provider's bill has been  
35 reduced as a result of application of the eightieth percentile or of a  
36 Current Procedural Terminology (CPT) coding change. The request  
37 must be made not later than sixty (60) days after receipt of the notice  
38 of the reduction. If a request is made, the billing review service must

1 provide:

- 2 (1) the name of the billing review service used to make the
- 3 reduction;
- 4 (2) the dollar amount of the reduction;
- 5 (3) the dollar amount of the medical service at the eightieth
- 6 percentile; and
- 7 (4) in the case of a CPT coding change, the basis upon which the
- 8 change was made;

9 not later than thirty (30) days after the date of the request.

10 **(c) If after a hearing the worker's compensation board finds**  
 11 **that a billing review service used a billing review standard that did**  
 12 **not comply with subsection (a)(1) through (a)(4) in determining the**  
 13 **pecuniary liability of an employer or an employer's insurance**  
 14 **carrier for a health care provider's charge for services or products**  
 15 **covered under occupational disease compensation, the worker's**  
 16 **compensation board may assess a civil penalty against the billing**  
 17 **review service in an amount not less than one hundred dollars**  
 18 **(\$100) and not more than one thousand dollars (\$1,000).".**

19 Page 13, between lines 41 and 42, begin a new paragraph and insert:

20 "SECTION 11. IC 27-7-2-34 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 34. The management  
 22 of the bureau shall furnish to all members of the bureau complete  
 23 information concerning each rejected risk and any member of such  
 24 bureau may write any rejected risk as regular business in which event  
 25 the risk so written shall no longer be treated as provided for in section  
 26 29 of this chapter. ~~The bureau shall, at least ninety (90) days prior to~~  
 27 ~~expiration, investigate such rejected risk as to its classifications, rates,~~  
 28 ~~accident record, attitude toward accident prevention, financial standing,~~  
 29 ~~and other matters pertinent to such risk. Sixty (60) days prior to the~~  
 30 ~~expiration date of such risk, the bureau shall bulletin all members of~~  
 31 ~~the bureau giving results of the investigation and the rates to become~~  
 32 ~~effective upon expiration of the current policy. If, at expiration, the risk~~

- 1 is still uninsured on voluntary basis, it shall automatically be insured
- 2 as provided in section 29 of this chapter."
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1553 as reprinted February 14, 2001.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 9, Nays 0.

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**Harrison**

**Chairperson**